

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 16086 of the District of Columbia Department of Housing and Community Development and IDS/Turner Limited Partnership, as amended, pursuant to 11 DCMR 3108.1 and 3107.2, for a special exception under Section 2516 to allow a theoretical lot subdivision, and a variance from the minimum width of lot requirements (Subsection 401.3) for the construction of 32 single-family detached dwellings in an R-1-B District at premises 2401-2419 17th Street, N.E., 2400-2412 18th Street, N.E., 2501-2509 17th Street, N.E. and 2500-2516 18th Street, N.E. [Square 4120, Lots 6-37 and 801 (800)].

HEARING DATE: November 1, 1995  
DECISION DATE: November 1, 1995 (Bench Decision)

SUMMARY ORDER

The original application requested and was advertised for a special exception under Section 2516 for a theoretical lot subdivision and variances from the provisions of Subsection 401.6 to allow street frontage of a lot to be less than forty percent of the required minimum width of lot and the provisions of Subsection 401.3, the minimum width of lot requirement. By memorandum dated October 10, 1995, Edgar T. Nunley, Chief, Zoning Review Branch submitted revised computations eliminating the variance from the provisions of Subsection 401.6. The Board proceeded to hear the application under the provisions of 11 DCMR 2516 and 401.3.

The Board provided proper and timely notice of public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 5B and to owners of property within 200 feet of the site.

The site of the application is located within the jurisdiction of ANC 5B. ANC 5B, which is automatically a party to the application, filed a written statement recommending support for the application.

As directed by 11 DCMR 3324.2, the Board has required the applicant to satisfy the burden of proving the elements which are necessary to establish the case for a variance from the strict application of the requirements of 11 DCMR 401.3 and a special exception pursuant to Section 2516. One neighbor of the site appeared at the hearing and was granted party status in opposition to the application. The neighbor cross-examined witnesses, however, he did not provide direct testimony or participate in the hearing and any other manner. The Board finds that the neighbor

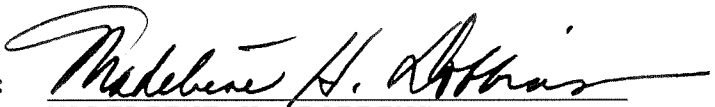
failed to carry out his responsibilities as a party participating in the public hearing. He failed to provide direct testimony and to submit to cross examination on the record. Therefore, the Board finds that no party, person or entity testified at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, the Board concludes that the applicant has met the burden of proof, pursuant to 11 DCMR 3107, that there exists an exceptional or extraordinary situation or condition related to the property which creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map. The Board further concludes that the applicant has met the burden of proof pursuant to 11 DCMR 3108, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map. It is therefore **ORDERED** that the application is **GRANTED**, **SUBJECT** to the **CONDITION** that construction shall be in accordance with plans marked as Exhibit Nos. 9 through 12 as amended by Exhibit No. 36-A and B of the record.

Pursuant to 11 DCMR 3301.1, the Board has determined to waive the requirement of 11 DCMR 3331.3 that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is appropriate in this case.

VOTE: 4-0 (Laura M. Richards, Susan Morgan Hinton, Jerrily R. Kress and Craig Ellis to grant; Angel F. Clarens not present, not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:   
MADELIENE H. DOBBINS  
Director

FINAL DATE OF ORDER: NOV 20 1995

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PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 16086

As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on NOV 20 1995 a copy of the order entered on that date in this matter was mailed postage prepaid to each person who appeared and participated in the public hearing concerning this matter, and who is listed below:

Andy Botticello  
IDS/Turner Limited Partnership  
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Merrick Malone, Director  
D.C. Dept. of Housing & Community Development  
51 N Street, N.E.  
Washington, D.C.

  
MADELIENE H. DOBBINS  
Director

Date: NOV 20 1995